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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7062 OF 2006

Kalyan Municipal Corporation & ors. ... Petitioners

V/s

Vishwas Madhukar Kulkarni & ors. ... Respondents

Mr. I.R. Kulkarni for the petitioners.

Mr. Y.M. Pendse for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 18TH JULY, 2007.

P.C.:

1. The Industrial Court has passed an order in Complaint (ULP) No. 631 of 1994 filed under Items 5, 6 & 9 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971. The Industrial Court has directed the petitioners to cease and desist from engaging in an unfair labour practice under Item 9 of Schedule IV of the Act. The petitioners were directed to pay the difference in wages payable for the clerical post and the wages actually paid to the respondent workmen. The petitioners were also directed to employ the workmen as clerks if they were otherwise eligible and if the posts were available. The petitioners contend that the respondent workmen were

employed as Kamgars and, therefore, the Industrial Court was in error in directing the petitioners to pay wages which are paid to the clerical staff. The Industrial Court has held that, right from the day the respondent workmen were employed and confirmed in service they were paid wages payable to Kamgars when the petitioners had made them work as clerks. Undisputedly, the wages payable to a clerk are more than those payable to a Kamgar. There is no dispute that the workmen have not been paid wages payable to a clerk. On the basis of the evidence on record, the Industrial Court has concluded that the workmen were in fact made to do clerical work ever since their appointment with the petitioners.

2. In such circumstances, there is no need to interfere with the order passed by the Industrial Court.

3. Petition rejected.

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